

**Congress of the United States**  
**Washington, DC 20510**

August 23, 2005

The Honorable David M. Walker  
Comptroller General  
Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Mr. Walker:

We understand that the Government Accountability Office (GAO) may conduct a review of weaknesses in the United States asylum system. We are writing to request that if the GAO conducts such a review of the asylum system, we be added as requesters, and that GAO ensure that its review is comprehensive and even-handed by considering not only vulnerabilities to asylum fraud, but also weaknesses in the system that prevent the claims of asylum seekers from being processed properly and considered fairly. In particular, we ask that the GAO address in its review the following questions:

- 1) We request an analysis of how factors unrelated to the merits of an asylum claim can impact the outcome of a case. For example, how do approval rates for asylum claims vary based on the immigration judge assigned, whether the applicant has legal representation, and whether the applicant is detained? What quality assurance and training measures might be put in place at the Executive Office for Immigration Review (EOIR) to make decision-making more consistent?
- 2) We request an analysis of what factors impact whether an asylum-seeker will be represented by counsel, such as location (and availability of low- or no-cost service providers and pro bono counsel in that location), languages spoken, national origin, and whether the applicant is detained. How might EOIR, Citizenship and Immigration Services (CIS), or Immigration and Customs Enforcement (ICE) increase the rate of representation for both affirmative applicants for asylum and asylum-seekers in removal proceedings?
- 3) We request an evaluation of the impact of the one-year deadline for filing an asylum application, which INS initially opposed as a waste of time and resources before it was enacted in 1996. In particular, how much time do asylum officers spend on evaluating issues involving the one-year deadline; how many people are granted the lesser form of relief of withholding of removal because their eligibility for asylum is foreclosed by the one-year deadline; how many people are denied asylum solely because of the one-year deadline and cannot meet the higher burden required for a grant of withholding of removal; and how many resources (in terms of funds and judge and attorney hours) are expended on those claims that are referred to an immigration judge solely because of issues related to the one-year deadline? Of those who are granted withholding of

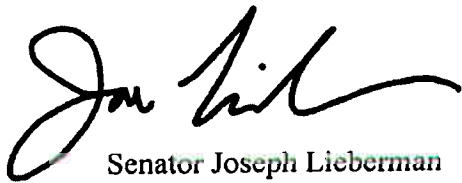
removal, rather than asylum, because they missed the one-year deadline, how many have family members who cannot join them as a result?

- 4) Finally, we request an analysis of the impact of the Department of Justice's 2002 regulation "streamlining" the appeals process at the Board of Immigration Appeals (BIA), which reduced the number of judges at the BIA from 23 to 11; made single-, rather than three-judge panels the predominant method of adjudication; required shorter case-processing times; and allowed for summary affirmance without opinion of the decision on appeal. For example, since the implementation of streamlining for asylum claims, what has been the impact on the rate at which: asylum denials are appealed to the BIA; BIA dismissals of asylum or withholding of removal claims are brought to the federal courts; the BIA has reversed or remanded such immigration judge decisions; and the federal courts have reversed or remanded such BIA decisions?

In addition, we ask that GAO speak with asylum officers, asylum advocates, and other relevant individuals to identify additional problems that may prevent the claims of asylum seekers from being processed properly and considered fairly.

Thank you for your attention to this matter. If you have any questions, please contact Kevin Landy of Senator Lieberman's staff at 224-2627, Kristin Wells of Congressman Conyers' staff at 225-6906, Tara Magner of Senator Leahy's staff at 4-7481, and Janice Kaguyutan of Senator Kennedy's staff at 4-7878.

Sincerely,



Senator Joseph Lieberman  
Ranking Minority Member  
Senate Committee on Homeland Security  
and Governmental Affairs



Congressman John Conyers, Jr.  
Ranking Minority Member  
House Judiciary Committee



Senator Patrick Leahy  
Ranking Minority Member  
Senate Judiciary Committee



Senator Edward Kennedy  
Ranking Minority Member  
Senate Immigration, Border Security  
and Citizenship Subcommittee